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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CURTIS J. WILLIAMS,

11 Plaintiff,

No. CIV S-05-0164 JAM EFB P

12 vs.

13 R. W. SANDHAM, et al.,

14 Defendants.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

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16 Plaintiff is a prisoner without counsel suing for alleged civil rights violations. *See* 42  
17 U.S.C. § 1983. On December 7, 2010, this court issued an order relieving defendants of their  
18 obligation to file a pretrial statement and vacating the hearings on their motions to dismiss for  
19 plaintiff's failure to prosecute. Dckt. No. 129. The court further recommended that the action be  
20 dismissed for failure to prosecute and that the motions to dismiss be denied as moot. *Id.* The  
21 court's order and recommendations were based on plaintiff's failure to file his pretrial statement  
22 by the deadline provided in the district judge's September 30, 2010 order (Dckt. No. 124).

23 On January 6, 2010, plaintiff filed his pretrial statement along with a motion for an  
24 extension of time to object to the December 7, 2010 findings and recommendations, explaining  
25 that his near-continuous placement in administrative segregation since September 18, 2010, and  
26 consequent lack of access to his legal materials and the law library, prevented him from timely

1 filing his pretrial statement. Dckt. Nos. 131, 132.

2 Accordingly, it is hereby ORDERED that the order and findings and recommendations  
3 issued on December 7, 2010 are hereby vacated. It is further RECOMMENDED that:

4 1. Defendants' motions to dismiss (Dckt. Nos. 125 and 127), both premised on plaintiff's  
5 failure to file a timely pretrial statement, be denied; and

6 2. Defendants be directed to file their pretrial statement no later than 30 days after any  
7 order adopting the findings and recommendations.

8 These findings and recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after  
10 being served with these findings and recommendations, any party may file written objections  
11 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
12 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the  
13 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158  
14 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: January 19, 2011.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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